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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| EXAMINER |
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DEJESUS, LYDIA M

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| ART UNIT | PAPER NUMBER |
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2859

DATE MAILED: 10/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,843

Applicant(s)

DESAI ET AL.

Examiner

Lydia M. De Jesús

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-15 and 22-27 is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,7,9 and 16-21 is/are rejected.
- 7) ☒ Claim(s) 2,5 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 2 and 10 are objected to because of the following informalities:

There is insufficient antecedent basis for the limitation “coupled to at least one annular lip of the housing” recited in lines 7-8 of claim 2.

Also, there is insufficient antecedent basis for the limitation “coupled to at least one annular lip of the housing” recited in lines 5-6 of claim 10.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation “configured to engage threads of a collet” makes the claim language confusing because it is unclear whether Applicant intends to positively recite a collet and the claim fails to state the structural relationship between the collet and the connector.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 4, 7, 9 and 16 through 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of OMEGAMARKER® Temperature Test Kit [hereinafter OMEGAMARKER®].

Wang shows a dual crayon holder assembly comprising: a first crayon [30], a second crayon [30] and a connector [10] physically connecting the first and second crayons in a single assembly. Wang also teaches holding in said assembly two crayons of different color (see column 2, lines 66-67). The holder assembly further comprises a resistance mechanism [20 +40 +11 +12] attached to the connector limiting rotational movement of the crayons about an axis, said resistance mechanism including a plurality of flanges [23].

The connector comprises first and second elements/end pieces [50], each having a marking end and a union end. As shown in Figure 1, said connector prevents contact between said first and second crayons.

OMEGAMARKER® discloses a kit of temperature indicator sticks in the form of crayons of different colors and each temperature indicator stick melts at a predetermined temperature. OMEGAMARKER® also shows the use of holders for each crayon.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the holder assembly of Wang for two different indicator sticks in the OMEGAMARKER® kit, each of a different melting temperature and color, as suggested by Wang, in order to provide an indicator assembly for marking two commonly used thresholds.

With respect to claims 16-21: The resulting assembly comprises a first means for indicating a first temperature, said first means comprising a first temperature indicator stick; a second means for indicating a second temperature, said second means comprising a second temperature indicating stick; means for retaining the first means to the second means to form a single indicator stick, said retaining means comprising a connector [10]; means for aligning [20] the first and second means along an axis; and means for controlling [40] movement of the first and second means.

Allowable Subject Matter

6. Claim 2 would be allowable if rewritten to overcome objections set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
7. Claims 5 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
9. Claims 10-15 and 22-27 are allowed.
10. The following is a statement of reasons for the indication of allowable subject matter:

Claim 2 has been found to be allowable over the Prior Art of record because the Prior Art of record fails to teach or suggest a dual temperature indicator stick including a pair of collets having threads and each being rotatably coupled to the housing and configured to engage

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separate temperature indicating sticks upon rotation of the collet about the housing, in combination with limitations of claim 1.

Claim 5 has been found to be allowable over the Prior Art of record because the Prior Art of record fails to teach or suggest a dual temperature indicator stick including at least one collet having threads attached to the connector and configured to engage one of the first and second indicator sticks, in combination with the limitations of claim 1.

Claim 6 has been found to be allowable over the Prior Art of record because the Prior Art of record fails to teach or suggest a dual temperature indicator stick wherein, in addition to the limitations recited in claim 1, the connector includes a collet and at least one of the first and second indicator sticks has a ridge configured to engage threads of the collet during extension of said indicator stick.

Claim 8 has been found to be allowable over the Prior Art of record because the Prior Art of record fails to teach or suggest a dual temperature indicator stick wherein, in addition to the limitations recited in claim 7, the union ends of the first and second elements thread with each other.

Claim 10 has been found to be allowable over the Prior Art of record because the Prior Art of record fails to teach or suggest a dual temperature indicator stick holder comprising a pair of collets, each rotatably coupled to the housing and configured to engage a separate indicator stick upon rotation of the collet about the housing, in combination with the remaining limitations of said claim.

Claims 11 through 15 have been found to be allowable over the Prior Art of record due to their dependence upon claim 10.

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Claim 22 has been found to be allowable over the Prior Art of record because the Prior Art of record fails to teach or suggest a method to provide a dual temperature indicator stick comprising the step of connecting a first and second indicator stick, as recited in said claim, in a single assembly.

Claims 23 through 27 have been found to be allowable over the Prior Art of record due to their dependence upon claim 22.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ellis et al. disclose a temperature indicator in the form of a stick of a material which melts at a given temperature. Besthorne discloses a combination pen and pencil writing instrument. The brochure for Nissen Temperature Sticks from Newman Tools, Inc. shows temperature indicating sticks having different temperature ratings, an indicator stick being protected by an adjustable aluminum holder. Lamber shows a dual crayon holder. Nakasuji et al. disclose a color memory toy set.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lydia M. De Jesús whose telephone number is (703) 306-5982.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-3431 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.



Diego F.F. Gutierrez
Supervisory Patent Examiner
Technology Center 2800

LDJ
October 16, 2002